Park Manor Nursing Home, Inc. *and* Hospital Employees Local 1273, Laborers' District Council of Baltimore & Vicinity, Laborers' International Union of North America, AFL–CIO. Case 5–CA–24522

September 11, 1995

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS COHEN AND TRUESDALE

On June 14, 1995, Administrative Law Judge Frank H. Itkin issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Park Manor Nursing Home, Inc., Baltimore, Maryland, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

We note that the Respondent does not except to the reimbursement order.

Steven L. Sokolow, Esq., for the General Counsel.
Stephan J. Boardman, Esq., for the Employer.

DECISION

FRANK H. ITKIN, Administrative Law Judge. An unfair labor practice charge was filed in the above case on June 22 and a complaint issued on August 30, 1994. General Counsel alleges in the complaint that Respondent Employer, despite prior proceedings, persists in its failure and refusal to bargain in good faith with the Union as the exclusive collective-bargaining agent of an appropriate unit of its employees, in violation of Section 8(a)(5) and (1) of the National Labor Relations Act (the Act). Respondent Employer denies violating the Act as alleged. A hearing was held on the issues raised in Baltimore, Maryland, on March 28, 1995, and upon the entire record in this proceeding, including my observation of the demeanor of the witnesses, I make the following

FINDINGS OF FACT

A. *Background and Prior Proceedings*

Respondent Employer is engaged in commerce and Charging Party Union is a labor organization, as alleged. The Union has been since about 1983 the exclusive collective-bargaining agent of the following appropriate unit of the Employer's employees:

> All full time and part time service and maintenance employees employed by Respondent at its 1802 Eutaw Place, Baltimore, Maryland facility who regularly work 15 or more hours per week, including food service employees, housekeeping employees and nursing service employees, but excluding all office clerical employees and all other clerks, physicians, dentists, registered nurses, licensed practical nurses, activities directors, technical and professional employees and supervisors as defined in the Act.

On October 31, 1985, the National Labor Relations Board, in agreement with its administrative law judge, found that the Employer

> discharged [Emily] Hall [on or about January 30, 1985] because she cooperated in the investigation of the Union's [unfair labor practice] charge . . . and because she demonstrated her renewed adherence to the Union by becoming a member of its negotiating committee. When [owner and administrator Henry] Goldbaum learned that Hall had informed the Regional Office that he was responsible for [a] revocation petition, thereby thwarting his plan to withdraw recognition from the Union, he resolved . . . to retaliate against Hall. . . . Goldbaum discharged a longtime and valued employee advancing a reason which under nondiscriminatory circumstances would probably have been disregarded or at most the subject of a reprimand. The Company thereby violated Section 8(a)(1), (3), and (4) of the Act. [277 NLRB 197, 205.]

The Board ordered the Employer to, inter alia, cease and desist from engaging in the conduct found unlawful and in any like or related manner interfering with, restraining, or coercing its employees in the exercise of their Section 7 rights. See 277 NLRB 197.

Later, on September 30, 1993, the Board, in agreement with its administrative law judge, found that the Employer had again interfered with, restrained, and coerced its employees in the exercise of their Section 7 rights and had again discriminatorily discharged employees in violation of Section 8(a)(1) and (3) of the Act. The Board found:

> Respondent has been party to a series of collective-bargaining agreements with the Union. . . . The most recent contract expired on October 31, 1991 [see G.C. Exh. 5], and no new contract has been concluded by the parties since that time. [The Employer violated Section 8(a)(1) of the Act] . . . when on or about January 14, [1992], Goldbaum informed Mary Brown that he had fired all the union employees . . . [and] when in early January Goldbaum told Anita Frazier that Shop Steward Emily Hall had caused all the home's employees to lose

> their jobs by going on strike. [The Employer violated Section 8(a)(1) and (3) of the Act] by discharging Mary Brown because of her membership in and sympathies with the Union . . . [and by discharging the named employees] because they went on strike [on or about December 11, 1991]. [However,] so much of the amended complaint which [also] alleges that Respondent here violated Section 8(a)(1) and (5) of the Act . . . must be dismissed.

The Board broadly ordered the Employer to, inter alia, cease and desist from engaging in the conduct found unlawful and ''by any other means or in any other manner'' interfering with, restraining, or coercing its employees in the exercise of their Section 7 rights. See 312 NLRB 763. On August 19, 1994, the United States Court of Appeals for the Fourth Circuit issued its judgment enforcing the Board's Order, noting that that Respondent Employer had failed to file a timely answer to the Board's application for enforcement.

Meanwhile, on August 18, 1994, the Board, in granting General Counsel's Motion for Summary Judgment, found that the Employer had this time failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the above unit employees over a successor collective-bargaining agreement and had unilaterally changed terms and conditions of employment by denying union representatives access to its premises, in violation of Section 8(a)(5) and (1) of the Act. The Board found:

> Since . . . 1983 the Union has been the designated exclusive collective-bargaining representative of the unit, and since then the Union has been recognized as the representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from November 1, 1988 through October 31, 1991 [see G.C. Exh. 5]. By letters dated October 4 and 21, 1993, respectively, the Union requested that Respondent meet to negotiate a successor collective bargaining agreement. Since about October 4, 1993, the Respondent has failed and refused to bargain with the Union as the exclusive representative of the unit. About October 12, 1993, the Respondent unilaterally changed the terms and conditions of employment of the unit by denying union representatives access to its premises . . . without prior notice to the Union and without having afforded the Union an opportunity to negotiate and bargain. [T]he Respondent has thereby violated Section 8(a)(1) and (5) of the Act.

The Board ordered the Employer to, inter alia, cease and desist from engaging in the conduct found unlawful or in any like or related manner interfering with, restraining, or coercing its employees in the exercise of their Section 7 rights; on request bargain in good faith with the Union; and grant union representatives ''reasonable access to its facilities.'' See 314 NLRB No. 127 (not reported in Board volumes).

B. *The Current Unlawful Conduct*

In the instant case, General Counsel alleges that on March 29 and June 16, 1994, the Employer and the Union again met for purposes of negotiating a successor collective-bargaining agreement; and that, notwithstanding the prior litigation, the Employer engaged in surface bargaining with respect to the issue of wages, proposed to delete or modify contractual language defining the Union's right to access to its premises, and by its overall conduct failed and refused to bargain in good faith with the Union. The pertinent evidence is summarized below:

John Singleton, an attorney for the Laborer's District Council, testified, by way of background, that the parties had last met ''for collective bargaining negotiations'' over a successor agreement during December 1991, and that a strike then ensued resulting in the proceedings described above in 312 NLRB 763. He recalled that ''when the negotiations broke off in 1991'' the open or unresolved ''issues'' included ''nonbargaining unit employees performing bargaining unit work,'' ''dues checkoff'' and ''wages.'' Further,

> With respect to wages, the Employer took the position [in 1991] that it could not afford to give anything substantial in terms of wage increases, and prior to going out on strike the Employer's last proposal had been a 2-year contract with the first year having no wage increase and the second year being a 1-percent wage increase.

Singleton testified that he next attended a collective-bargaining meeting with the Employer's representatives on March 29, 1994. He noted that at the time the Employer had not yet complied with the Board's outstanding 1993 order in 312 NLRB 763. He also noted that an unfair labor practice complaint had just issued in the 8(a)(5) and (1) proceedings reported in 314 NLRB No. 127 (not reported in Board volumes). Singleton testified that the Union proposed at this March 29, 1994 meeting ''a five percent'' wage increase ''each year in [a] two year agreement.'' Further,

> There were still outstanding issues [from 1991], that is, the Union proposed maintaining dues checkoff . . . whereas [the Employer] was proposing elimination of dues checkoff provisions. The Union was proposing that nonbargaining unit employees not perform bargaining unit work. . . . [Stephan Boardman, attorney for the Employer] . . . maintained [the Employer's] position [on supervisors performing bargaining unit work] . . . since the Board had not found a violation [in the earlier proceeding.] He maintained that the checkoff provisions be eliminated . . . [and he] reiterated the position that Park Manor was not in good financial shape, that he didn't have the money and therefore they were proposing . . . zero in the first year of the contract and one percent in the second.

Singleton then requested ''payroll information which would indicate what if any employees had received wage increases since the strike in December 1991.'' Boardman, by fax transmittals dated April 19 and 27, 1994, apprised Singleton that unit employees in fact had received wage increases during September 1993 of up to 75 cents per hour. (See G.C. Exhs. 2 and 3.) Singleton testified:

> The Employer had been taking the position since 1991 and again in March 1994 that they could not afford wage increases. The information which had been trans-

> mitted to me indicated that, not only had they provided without negotiating [with] the Union wage increases, but these wage increases were substantially more than what the Union had requested in any bargaining session.

The next meeting of the parties was on June 16, 1994. Singleton, as he testified, had received a fax transmittal from Boardman on June 16, stating in part, as follows (G.C. Exh. 4):

> There is no change in Park Manor's position with respect to nonunit personnel performing work . . . or the deletion of the checkoff clause. . . . It seems unrealistic to expect the Home to change its position over these two issues at this time.
>
> The deletion of language of the contract giving the Union access to the Home [is proposed]. The Home is for patient care and discussions regarding grievances and other Union matters should be held elsewhere so as not to disrupt patient care.
>
> The Home continues to suffer serious economic hardship. As before, the Home encourages the Union to examine its financial records. We do propose however a one percent improvement in wages at the beginning of the second year of the agreement.

Singleton noted that the Employer's proposed deletion of the union access provision ''had not been proposed by the Company before.'' Singleton further noted, as discussed above, an unfair labor practice complaint had just issued alleging a violation of Section 8(a)(5) and (1) of the Act by denying union representatives access to the Home.

Following receipt of the above transmittal on June 16, Singleton met with Boardman. There, as Singleton testified:

> [Singleton] had told [Boardman] . . . the wage proposals [by the Employer] were ridiculous in view of the faxes that I had gotten indicating that employees had received wage increases that ran anywhere from 5 to 25 percent. They had given those gigantic wage increases and for him to come in and say that they couldn't afford it, when that was exactly the position they had taken before the strike . . . was ludicrous. . . . [With respect to the Employer's proposed denial of Union access] I had felt that Park Manor was retaliating every time the Union attempted to enforce a contract provision. [T]he other two proposals, specifically the checkoff provision and nonsupervisory employees performing bargaining unit work [proposal], had arisen because of previous grievances that we pressed.

The representatives of the parties met again later that same day. There, as Singleton testified,

> [Boardman] offered one percent in the first year and three percent in the second year of the agreement.
>
> I [Singleton] responded that the access issue was still on the table. He was still proposing this . . . [I said] let's get that off the table immediately and start bargaining.
>
> They refused and the meeting didn't last very long.

Singleton noted that Boardman had ''indicated that what they would be willing to do was, the Union could come to the facility, but they could only meet next door at the administrative offices.'' Singleton further noted that previously union access ''had never been a problem''—''we had never had a problem with access.''

Thereafter, on March 8, 1995, Union President and Business Manager Kenneth Raposa wrote the Employer requesting a resumption of negotiations. (See G.C. Exh. 6.) Boardman, responding to this request, stated to Singleton he ''would be willing to do that but he suggested that it occur after this . . . trial.''

Ernst Schuster, a union field representative, testified that he met with Union Steward Emily Hall ''approximately once a week'' at the Employer's Home commencing about January 1993 ''until about eight months ago.'' He described in detail these visitations, and testified without contradiction that ''prior to October 12 , 1993''—when he as found by the Board had been unlawfully denied access to the facility—no one from management ''ever [said] anything to [him] about the way in which [he] met with Ms. Hall at the Home.''

Emily Hall similarly testified that ''during the period before June of 1994,'' no representative of management had ''ever [said] anything to [her] about the fact that [she was] meeting with Union agents at the Home.''

Samuel Handwerger, a certified public accountant, was the only witness called on behalf of Respondent Employer. He generally asserted, without substantiating documentation, that the Employer's ''financial records'' showed that the Employer's ''assets are far exceeded by their liabilities'' and the Employer's ''cash flow'' was ''tenuous.''

I credit the testimony of John Singleton, Ernst Schuster, and Emily Hall as detailed above. Their testimony is in part mutually corroborative; they impressed me as trustworthy and reliable witnesses; and their testimony is essentially undenied. I do not credit or rely upon the general, vague, and unsubstantiated assertions of Samuel Handwerger.

Discussion

Section 8(a)(5) of the National Labor Relations Act makes it an unfair labor practice for an employer ''to refuse to bargain collectively with the representative of his employees.'' Section 8(d) of the Act explains that ''to bargain collectively is the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment.'' In *NLRB v. Insurance Agents' Union*, 361 U.S. 477, 485, 486 (1960), the Supreme Court recognized that ''[c]ollective bargaining . . . is not simply an occasion for purely formal meetings between management and labor while each maintains an attitude of take it or leave it; it presupposes a desire to reach ultimate agreement, to enter into a collective-bargaining contract''; though ''the parties need not contract on any specific terms . . . they are bound to deal with each other with a serious attempt to resolve differences and reach a common ground.'' Similarly, in *NLRB v. Katz*, 369 U.S. 736, 747 (1962), the Supreme Court held that the parties must refrain not only from behavior ''which reflects a cast of mind against reaching agreement,'' but from behavior ''which is in effect a refusal to negotiate or which directly obstructs or inhibits the actual process of discussion.'' For, as stated by the Court of Ap-

peals for the Second Circuit in *NLRB v. General Electric*, 481 F.2d 736, 762 (2d Cir. 1969), cert. denied 397 U.S. 965 (1970),

> [T]he statute clearly contemplates that to the end of encouraging productive bargaining, the parties must make ''a serious attempt to resolve differences and reach a common ground'' . . . an effort inconsistent with ''a predetermined resolve not to budge from an initial position.'' A pattern of conduct by which one party makes it virtually impossible for him to respond to the other—knowing that he is doing so deliberately—should be condemned by the same rationale that prohibits ''going through the motions'' ''with a predetermined resolve not to budge from an initial position'' . . . [citations omitted].

The Employer's intense and adamant opposition to the Union's representation of its employees has been thoroughly documented above. Thus, as the Board found, the Employer

> discharged [Emily] Hall [on or about January 30, 1985] because she cooperated in the investigation of the Union's [unfair labor practice] charge . . . and because she demonstrated her renewed adherence to the Union by becoming a member of its negotiating committee. When [owner and administrator Henry] Goldbaum learned that Hall had informed the Regional Office that he was responsible for [a] revocation petition, thereby thwarting his plan to withdraw recognition from the Union, he resolved . . . to retaliate against Hall . . . .
>
> [O]n or about January 14, [1992] Goldbaum informed Mary Brown that he had fired all the Union employees . . . [and] in early January Goldbaum told Anita Frazier that shop steward Emily Hall . . . had caused all the Home's employees to lose their jobs by going on strike. [The Employer also discharged] Mary Brown because of her membership in and sympathies with the Union . . . [and discharged employees] because they went on strike [on or about December 11, 1991] . . . and
>
> [S]ince about October 4, 1993 the [Employer] has failed and refused to bargain with the Union as the exclusive representative of the unit [, and] about October 12, 1993 the [Employer] unilaterally changed the terms and conditions of employment of the unit by denying union representatives access to its premises . . . without prior notice to the Union and without having afforded the Union an opportunity to negotiate and bargain.

Faced with a renewed attempt by the Union in 1994 to negotiate a successor collective-bargaining agreement, the Employer again attempted to frustrate and prevent its employees from exercising their Section 7 rights. As Union Attorney Singleton credibly testified, at the March 29, 1994 meeting of the parties, Company Attorney Boardman

> maintained [the Employer's] position [on supervisors performing bargaining unit work] . . . since the Board had not found a violation [in the earlier proceeding.] . . . He maintained that the checkoff provisions be eliminated . . . [and he] reiterated the position that Park Manor was not in good financial shape, that he didn't have the money and therefore they were proposing . . . zero in the first year of the contract and one percent in the second.

Singleton requested ''payroll information which would indicate what if any employees had received wage increases since the strike in December 1991.'' Boardman, by fax transmittals dated April 19 and 27, 1994, apprised Singleton that unit employees in fact had received wage increases during September 1993 of up to 75 cents per hour. As Singleton explained,

> The Employer had been taking the position since 1991 and again in March 1994 that they could not afford wage increases. The information which had been transmitted to me indicated that, not only had they provided without negotiating [with] the Union wage increases, but these wage increases were substantially more than what the Union had requested in any bargaining session.

In addition, Singleton thereafter received a fax transmittal from Boardman on June 16, stating:

> There is no change in Park Manor's position with respect to nonunit personnel performing work . . . or the deletion of the checkoff clause. It seems unrealistic to expect the Home to change its position over these two issues at this time.
>
> The deletion of language of the contract giving the Union access to the Home [is proposed]. The Home is for patient care and discussions regarding grievances and other Union matters should be held elsewhere so as not to disrupt patient care.
>
> The Home continues to suffer serious economic hardship. As before, the Home encourages the Union to examine its financial records. We do propose however a one percent improvement in wages at the beginning of the second year of the agreement.

Singleton noted that the Employer's proposed deletion of the union access provision ''had not been proposed by the Company before''; and in the past union access ''had never been a problem''—''we had never had a problem with access.''

Following receipt of the above transmittal on June 16, Singleton met with Boardman. There, as Singleton credibly testified:

> I [Singleton] had told [Boardman] . . . the wage proposals [by the Employer] were ridiculous in view of the faxes that I had gotten indicating that employees had received wage increases that ran anywhere from 5 to 25 percent. They had given those gigantic wage increases and for him to come in and say that they couldn't afford it, when that was exactly the position they had taken before the strike . . . was ludicrous. [With respect to the Employer's proposed denial of Union access] I had felt that Park Manor was retaliating every time the Union attempted to enforce a contract provision. [T]he other two proposals, specifically the checkoff provision and nonsupervisory employees performing bargaining unit work [proposal], had arisen because of previous grievances that we pressed.

The representatives of the parties met again later that same day, and the meeting ''didn't last very long.'' Thereafter, on March 8, 1995, the Union again requested a resumption of negotiations, and Boardman responded he ''would be willing to do that but he suggested that it occur after this . . . trial.''

I find and conclude here that Respondent Employer, by the above and related conduct, was persisting in its failure and refusal to bargain in good faith with the Union as the exclusive collective-bargaining agent of an appropriate unit of its employees. The Employer's new June 16, 1994 proposal to deny, and later to limit, union access was plainly advanced in retaliation for the Union's protest over the Employer's unilateral denial of this right resulting in the issuance of a complaint. This record contains no justification for the Employer's sudden advancement of this proposal. Indeed, the credible and undisputed evidence of record shows that ''Union access'' had never previously been a problem. Likewise, the Employer's renewed assertion on June 16 that the

> Home continues to suffer serious economic hardship [and we therefore] propose . . . a one percent improvement in wages at the beginning of the second year of the agreement . . . .

was, not only not justified by any credible or reliable evidence, but was inconsistent with its prior granting of substantial wage raises to the unit employees for amounts greater than those requested by the Union. For, as Singleton credibly observed,

> [T]he wage proposals [by the Employer] were ridiculous in view of the faxes that I had gotten indicating that employees had received wage increases that ran anywhere from 5 to 25 percent. They had given those gigantic wage increases and for him to come in and say that they couldn't afford it, when that was exactly the position they had taken before the strike . . . was ludicrous. . . . [With respect to the Employer's proposed denial of Union access] I had felt that Park Manor was retaliating every time the Union attempted to enforce a contract provision. [T]he other two proposals, specifically the checkoff provision and nonsupervisory employees performing bargaining unit work [proposal], had arisen because of previous grievances that we pressed.

On this record, Respondent Employer was not ''making a serious attempt to resolve differences and reach a common ground,'' for, clearly, it had no ''desire to reach ultimate agreement.'' See cases cited supra. In short, the Employer was stalling and continuing to give the Union the runaround in an attempt to frustrate and prevent the Union from fulfilling its statutory obligation. I therefore find and conclude that the Employer violated Section 8(a)(5) and (1) of the Act by failing and refusing to bargain in good faith with the Union as the exclusive collective-bargaining representative of an appropriate unit of its employees by engaging in surface bargaining with regard to the issue of wages, by proposing to delete or modify contractual language defining the Union's right to access to its premises, and by its related overall bad-faith conduct.[1]

CONCLUSIONS OF LAW

1. Respondent Employer is engaged in commerce as alleged.

2. Charging Party Union is a labor organization as alleged.

3. Respondent Employer violated Section 8(a)(5) and (1) of the Act by failing and refusing to bargain in good faith with the Union as the exclusive collective-bargaining representative of an appropriate unit of its employees by engaging in surface bargaining with regard to the issue of wages, by proposing to delete or modify contractual language defining the Union's right to access to its premises, and by its related overall bad faith conduct. The appropriate bargaining unit is:

> All full time and part time service and maintenance employees employed by Respondent at its 1802 Eutaw Place, Baltimore, Maryland facility who regularly work 15 or more hours per week, including food service employees, housekeeping employees and nursing service employees, but excluding all office clerical employees and all other clerks, physicians, dentists, registered nurses, licensed practical nurses, activities directors, technical and professional employees and supervisors as defined in the Act.

4. The unfair labor practices found above affect commerce as alleged.

THE REMEDY

To remedy the unfair labor practices found above Respondent Employer will be directed to cease and desist from engaging in the above unlawful conduct and, because of its continued proclivity to violate the proscriptions of the Act, in any other manner interfering with, restraining, and coercing employees in the exercise of their Section 7 rights. Affirmatively, to effectuate the purposes and policies of the Act, Respondent Employer will be directed to, on request, bargain in good faith with the Union and embody any understanding reached in a signed agreement. Respondent Employer will also be directed to post the attached notice.

General Counsel also seeks an order requiring Respondent Employer to reimburse the Board and the Union for all costs and expenses incurred in the investigation, preparation, and conduct of this case. As restated by the Board in *Kings Terrace Nursing Home*, 227 NLRB 251 (1976),

> In *Tiidee Products*, 194 NLRB 1234 (1972), wherein litigation expenses were assessed against a respondent, the respondent had engaged in numerous violations of the Act, reflecting a hostile attitude toward collective bargaining. The Board emphasized that [such a] remedy was justified because of the ''patently frivolous'' nature of the defenses offered by respondent. Where the defenses raised by respondent are ''debatable,'' rather

[1] The Employer's assertion that ''portions of the complaint are barred by Section 10(b) of the Act'' is rejected. This record makes it clear that the Employer's earlier conduct was cited and relied upon for background purposes only.

than frivolous, the remedy has been found to be unwarranted.

In the instant case, the Employer, despite prior Board and court orders, has similarly engaged in numerous violations of the Act reflecting its continuing hostile attitude toward collective bargaining; it has offered no credible justification for its continuing unlawful conduct; and its defenses, assessed in the context of the prior Board and court adjudications, are patently frivolous. In my view, neither the Board's funds nor those of the Charging Party should have to be repeatedly and continuously expended in such circumstances. I therefore recommend to the Board the order thus requested by General Counsel. Cf. *EPE, Inc.*, 273 NLRB 1375, 1378–1379 (1985).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[2]

ORDER

The Respondent, Park Manor Nursing Home, Inc., Baltimore, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain in good faith with the Union, Hospital Employees Local 1273, Laborers' District Council of Baltimore & Vicinity, Laborers' International Union of North America, AFL–CIO as the exclusive collective-bargaining representative of an appropriate unit of its employees by engaging in surface bargaining with regard to the issue of wages, by proposing to delete or modify contractual language defining the Union's right to access to its premises, and by its related overall bad-faith conduct. The appropriate bargaining unit is:

> All full time and part time service and maintenance employees employed by Respondent at its 1802 Eutaw Place, Baltimore, Maryland facility who regularly work 15 or more hours per week, including food service employees, housekeeping employees and nursing service employees, but excluding all office clerical employees and all other clerks, physicians, dentists, registered nurses, licensed practical nurses, activities directors, technical and professional employees and supervisors as defined in the Act.

(b) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request bargain in good faith with the Union as the exclusive collective-bargaining representative of the above appropriate unit of its employees with respect to their wages, hours and other terms and conditions of employment, and if an understanding is reached embody that understanding in a signed agreement.

(b) Reimburse the Board and the Union for all costs and expenses incurred in the investigation, preparation, and conduct of this case.

(c) Post at its facility copies of the attached notice marked ''Appendix.''[3] Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[2] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[3] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we, Park Manor Nursing Home, Inc., violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

> To organize
> To form, join, or assist any union
> To bargain collectively through representatives of their own choice
> To act together for other mutual aid or protection
> To choose not to engage in any of these protected concerted activities.

WE WILL NOT fail and refuse to bargain in good faith with the Union, Hospital Employees Local 1273, Laborers' District Council of Baltimore & Vicinity, Laborers' International Union of North America, AFL–CIO as the exclusive collective-bargaining representative of an appropriate unit of our employees by engaging in surface bargaining with regard to the issue of wages, by proposing to delete or modify contractual language defining the Union's right to access to our premises, and by our related overall bad-faith conduct. The appropriate bargaining unit is:

> All full time and part time service and maintenance employees employed by Respondent at its 1802 Eutaw Place, Baltimore, Maryland facility who regularly work 15 or more hours per week, including food service employees, housekeeping employees and nursing service employees, but excluding all office clerical employees and all other clerks, physicians, dentists, registered nurses, licensed practical nurses, activities directors,

technical and professional employees and supervisors as defined in the Act.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, on request, bargain in good faith with the Union as the exclusive collective-bargaining representative of the above appropriate unit of our employees with respect to their wages, hours, and other terms and conditions of employment, and if an understanding is reached embody that understanding in a signed agreement.

WE WILL reimburse the Board and the Union for all costs and expenses incurred in the investigation, preparation, and conduct of this case.

PARK MANOR NURSING HOME, INC.